



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX**

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Dr. Carl B. Pilcher
Universe Division
Science Mission Directorate
Suite 3W39
NASA Headquarters
Washington, DC 20546-0001

Subject: Final Environmental Impact Statement (DEIS) for the Outrigger Telescopes
Project [CEQ # 20050058]

Dear Dr. Pilcher:

The U.S. Environmental Protection Agency (EPA) has reviewed the above-referenced document pursuant to the National Environmental Policy Act (NEPA), Council on Environmental Quality (CEQ) regulations (40 CFR Parts 1500-1509) and Section 309 of the Clean Air Act.

We rated the Draft EIS as Environmental Concerns, Insufficient Information (EC-2). While EPA recognizes the scientific importance of the W.M. Keck Observatory on Mauna Kea and supported the recent decision to complete an EIS for this project, we expressed concerns that the negative impacts associated with locating additional structures on this sacred site would primarily impact Native Hawaiians. We continue to be concerned with the cultural and habitat impacts from the project as proposed.

The Final EIS concludes that the Gran Telescopio de Canarias site in La Palma, Canary Islands, would have fewer impacts to transportation, cultural resources, air quality, noise levels, and visual resources, while meeting the purpose and need. It would also avoid impacts to the Wekiu bug, a candidate for listing under the Endangered Species Act. If the proposed action is adopted, we recommend that the Record of Decision specifically address 40 CFR 1505.2 (b) and (c). These regulations require that the environmentally preferable alternative be identified and that all practicable means to avoid or minimize environmental impacts are incorporated.

The Draft and Final EIS conclude that the project would not have a disproportionately high or adverse human health or environmental effects on minority populations (FEIS, page 4-44) while acknowledging that the cumulative effects of past projects and planned projects will continue to have a substantial and adverse impact on the cultural, biological, visual, and geological resources of Mauna Kea (FEIS, page 4-124). While, these impacts will be primarily on the Native Hawaiians that hold these areas as sacred, this is not considered an Environmental Justice issue because of the lack of human populations in the area. We note that CEQ's Environmental Justice Guidance Under NEPA includes the analysis of cultural impacts on

minority communities when those “impacts are interrelated to impacts on the natural or physical environment” (p. 26, CEQ Guidance, 1997).

EPA has reviewed the scoping comments and comments on the Draft EIS, and we are concerned that Environmental Justice concerns have not been fully addressed in the Final EIS. We recognize that an integrated resource management planning approach to ensure that impacts to cultural resources, visual resources, and biological resources are avoided or mitigated, is the responsibility of the Office of Mauna Kea Management. However, since NASA is providing \$2 million for mitigation, it is important that an integrated planning approach be used to determine the best overall use of those funds. We also note that according to NASA’s EJ strategy (1995), each NASA center is responsible for developing its own EJ Implementation Plan. Because of the increasing impacts to cultural resources, NASA should consider preparing an EJ Implementation Plan for the Mauna Kea Complex.

Additionally, we have continuing concerns over the selection and role of the cultural monitor and recommend that the Office of Mauna Kea Management be involved in selection of and have oversight of the cultural monitor and archaeologist. The cultural monitor should have authority to halt construction activity in an area if there are impacts or potential impacts to cultural resources. While we recognize the efforts to involve the public, NASA should continue to consult with Native Hawaiian organizations throughout development of the project to address their concerns. The Record of Decision should clearly commit to a continued and substantive dialogue with Native Hawaiians throughout the construction and operation of the project.

Although currently, ultra-low sulfur diesel fuel is not available in the island of Hawaii, other appropriate controls, such as specialized catalytic converters, to reduce emissions of diesel particulate matter and other air pollutants that will result from the use of construction equipment, should be implemented. We also note that by 2006, ultra low-sulfur diesel fuel will be available in all 50 states (see Summary and Analysis of the Highway Diesel Fuel 2004 Pre-Compliance Reports, EPA- September 2004). Use of this fuel and particle traps for any construction after 2006, should be incorporated into the mitigation measures and reflected in the Record of Decision.

We appreciate the opportunity to review this FEIS. Please send two copies of the Record of Decision to this office when it is officially filed with our Washington, D.C. office. In the meantime, if you have any questions, please call Summer Allen, the lead reviewer for this project, at (415) 972-3847.

Sincerely,

/S/

Lisa B. Hanf, Manager
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MI# 003596

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